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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,986	06/23/2003	Billy Joe Ratliff JR.	DN2003096	9094

27280 7590 12/05/2005

THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON, OH 44316-0001

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/601,986	Applicant(s) RATLIFF, BILLY JOE	
	Examiner Steven D. Maki	Art Unit 1733	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see advisory action attachment. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: 5.
- Claim(s) rejected: 1-4 and 6-12.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Advisory Action Attachment

new issue

The new issue is new claim 13 which fails to rewrite dependent claim 5 in independent form including all of the limitations of the base claim and any intervening claims. The subject matter of "the rib having an almost straight configuration at the tread depth" found in claim 1 of the amendment filed 6-3-05 is omitted in new claim 13 of the after final amendment filed 11-8-05.

remarks

With respect to "almost straight" (literal support being found in paragraph 19 of the original specification), page 2 of the office action dated 8-18-05 states:

As to claim 1, it would have been obvious to one of ordinary skill in the art to provide Kuhr et al's central rib such that the rib has an "almost straight" configuration at the tread depth defined at the base of the grooves in view of Kuhr et al' teaching to define the central rib between a pair of linear circumferential grooves or a pair of zigzag circumferential grooves. Although "almost straight" excludes "straight", one of ordinary skill in the art would readily understand from Kuhr et al's disclosure (figures 1,3) that some variance from straight for the rib is permitted, contemplated and suggested.

In the after final amendment filed 11-8-05, applicant presents no argument traversing the above obviousness conclusion and thereby acquiesces in the examiner's holding that it would have been obvious to one of ordinary skill in the art to provide Kuhr et al's central rib such that the rib has an "almost straight" configuration at the tread depth defined at the base of the grooves.

With respect to Japan 513 and Himuro 384 / Europe 371, applicant apparently agrees that it would have been obvious to provide Kuhr et al's almost straight rib with

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chamfers (recessed parts) 28 per the teachings of Japan 513 and to chamfer the axially innermost points of Kuhr et al's blocks with chamfers per the teachings of Himuro 384 / Europe 371, but argues that the rib chamfers and the block chamfers are not aligned. This argument is not persuasive since claim 1 requires "axially adjacent" instead of "aligned".

Applicant comments: "Japan 513 teaches that the crevices 28 should be adjacent the transverse grooves 20 so that water may flow from the crevices 28 to the transverse grooves 20" (page 6 of the after final amendment filed 11-8-05). The examiner agrees with applicant that Japan 513 teaches that the crevices 28 should be adjacent the transverse grooves 20. The examiner adds that the profiled elements (blocks) of Kuhr et al are separated by transverse grooves and that Japan 513 motivates one of ordinary skill in the art to associate a rib chamfer (crevice 28) with the transverse groove of Kuhr et al to improve drainage. Such a modification is consistent with the teachings of Kuhr et al, since Kuhr et al shows associating notches with the transverse grooves (figure 3) Such a modification of Kuhr et al would have been desirable since Kuhr et al teaches using grooves for effective drainage.

With respect to Exhibit 1 filed 11-8-05 showing the tire of Kuhr et al as modified by Japan 513, applicant argues that it would not be obvious to relocate the chamfers. This argument is irrelevant since, with respect to rib chamfer location, Exhibit 1 is consistent with Japan 513's teaching that "...the crevices 28 should be adjacent the transverse grooves 20". In applicant's Exhibit 1, each transverse groove is provided with an illustrated crevice. This is consistent with Japan 513's teaching that pitch

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(spacing of the crevices) may be 20-75% of the ground contact length LO (paragraph 68 of machine translation for Japan 513). Exhibit 1 also shows the illustrated crevices as being shorter than the circumferential width of the opening of the transverse groove at the circumferential groove. Japan 513 teaches away from using such a short circumferential length for the crevices since Japan 513 teaches that the length of the crevices 28 may have a circumferential length L1 of 10-50% of the ground contact length LO (paragraph 66 of machine translation for Japan 513). When using such a length L1, the crevices 28 are axially adjacent the acute angle corners of the blocks.

Hence, Europe 384 / Europe 971 motivate one of ordinary skill in the art to chamfer the axially innermost corners of Kuhr et al's blocks to improve drainage and rigidity of the blocks, Japan 513 motivates one of ordinary skill in the art to provide Kuhr et al's rib with chamfers 28 adjacent the transverse grooves, and Japan 513 suggests providing the chamfers 28 with a length such that the chamfers 28 are located axially adjacent the axially inner most corners of blocks, which are adjacent the rib.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
November 30, 2005


STEVEN D. MAKI
PRIMARY EXAMINER 11-30-05